

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NEW CINGULAR WIRELESS PCS, LLC, :

Plaintiff, :

v. :

No : 06-334

KENT COUNTY
Sussex County Courthouse
1 The Circle
Race and Market Street
Georgetown, DE

and

KENT COUNTY DEPARTMENT OF
PLANNING SERVICES
Kent County Administrative Complex
555 Bay Road
Dover, DE

Defendants.

DENENDANTS' ANSWER

Defendants Kent County and Kent County Department of Planning Services, by and through their undersigned attorneys, hereby file their Answer to Plaintiff's Complaint dated May 19, 2006, admitting, denying and otherwise alleging as follows (the numbered paragraphs correspond to those in Plaintiff's Complaint):

Kent County and Kent County Department of Planning Services, hereinafter referred to generally as "Kent County" denies New Cingular Wireless PCS' Complaint and seeks judgment in its favor.

1. Kent County lacks sufficient information or belief to admit or deny the

allegations in paragraph 1, regarding the formation of New Cingular Wireless PCS, LLC (hereinafter "Cingular" and on that basis denies them.

2. Admitted.

3. Admitted.

4. The averment contained in this paragraph states a legal conclusion which requires no response.

5. The averment contained in this paragraph states a legal conclusion which requires no response.

6. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

7. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

8. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

9. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

10. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

11. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

12. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

13. Admitted.

14. Admitted

15. Admitted.

16. The averment contained in this paragraph states a legal conclusion which requires no response.

17. The averment contained in this paragraph states a legal conclusion which requires no response.

COUNT 1 –
TELECOMMUNICATIONS ACT

18. The averment contained in paragraph 18 requires no response.

19. Kent County denies that the Rejection Letter does not comply with the Act. The balance of the allegation contained in paragraph 19 are admitted.

20. The averment contained in this paragraph states a legal conclusion which requires no response.

21. Denied.

COUNT TWO –
PREEMPTION – COMMERCE CLAUSE

22. The averment contained in paragraph 22 requires no response.

23. The averment contained in this paragraph states a legal conclusion which requires no response.

24. The averment contained in this paragraph states a legal conclusion which requires no response.

25. The averment contained in this paragraph states a legal conclusion which requires no response.

26. Denied. The averment contained in this paragraph states a legal

conclusion which requires no response.

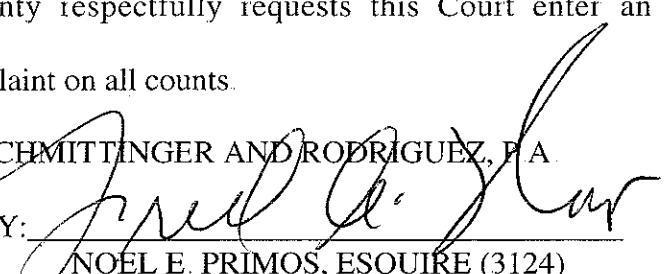
COUNT THREE-
DUE PROCESS

27. The averment contained in paragraph 27 requires no response.

28. The averment contained in this paragraph states a legal conclusion which requires no response.

29. Denied.

Wherefore, Kent County respectfully requests this Court enter an Order dismissing Plaintiff's Complaint on all counts.

SCHMITTINGER AND RODRIGUEZ, P.A.
BY: 
NOEL E. PRIMOS, ESQUIRE (3124)
FRED A. TOWNSEND III, ESQUIRE (2920)
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Attorney for Defendants

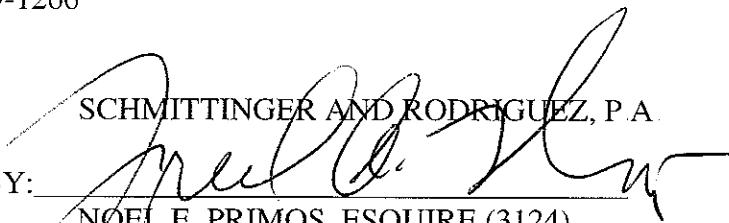
DATED: 6/12/06

IN THE UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE

I, Fred A. Townsend III, hereby certify that on June 12, 2006, the attached document was mailed to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

Michael Bonkowski, Esquire
Saul Ewing LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899-1266

BY: 
SCHMITTINGER AND RODRIGUEZ, P.A.
NOEL E. PRIMOS, ESQUIRE (3124)
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DATED: *6/12/06*